

REMARKS

Claims 1-14 are present in the above-captioned application and have been subjected to a species election under 35 U.S.C. § 121. Specifically, the Official Action avers that the following patentably distinct species of the claimed invention are present in the claims:

Species 1 of FIGS. 1-7, drawn to an electric bending endoscope having first and section holding members;

Species 2 of FIGS. 8 and 9, drawn to an electric bending endoscope having a stop stool for use with the endoscope and a holding means arranged in the operation portion fixed to the inner gear frame of the gear box;

Species 3 of FIGS. 10 and 11, drawn to an electric bending endoscope having a gear box used with the electric bending scope and to which a main frame is attached;

Species 4 of FIG. 12, drawn to an electric bending endoscope having a bending and fixing portion arranged to the base end portion of the gear box via a plurality of fixtures;

Species 5 of FIG. 13, drawn to an electric bending endoscope having a bending and fixing portion arranged to the base end portion of the gear box;

Species 6 of FIG. 14, drawn to an electric bending endoscope wherein the main frame of the bending and fixing portion comprises a vertically bent extending portion and is made of a hard member; and

Species 7 of FIG. 15, drawn to an electric bending endoscope wherein the main frame of the bending and fixing portion is a U-shaped member made of a hard member.

It is the Examiner's position that the species listed as Species 1-7 are patentably distinct from each other.

In response to the Examiner's requirement for species election, Applicant elects, with traverse, to prosecute the subject matter of Species 7 of FIG. 15 which is readable upon claims 1, 3, 4, 8-12, and 14. However, Applicant reserves the right under 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter in this application.

MPEP 806.04(f) states the mutually exclusive characteristics rule of species restriction. That is "one claim recites limitations which under the disclosure are found in a first species but not in a second, while a second claim recites limitations disclosed for the second species and not the first". Applicants respectfully submit that this rule is not complied with as to at least Species 1 and 2-7 set forth by the Examiner. Although the first and second holding members of Species 1 are not "essential" to the claimed invention, the contents of the claims of the first embodiment (Species 1) have a correspondence with the claims of the remaining embodiments (embodiments 2-7, corresponding to Species 2-7). Therefore, the claims of Species 1 are not mutually exclusive to those of Species 2-7. Thus, Applicants respectfully submit that Species 1 fails the mutually exclusive characteristics rule as to the other species (2-7) and further request continued prosecution of the claims of Species 1 (at least claims 2 and 13) along with elected claims 1, 3, 4, 8-12, and 14.

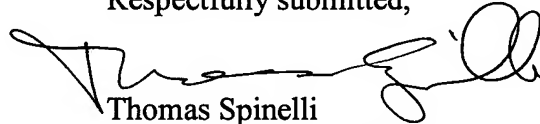
Furthermore, it is respectfully requested that this Preliminary Amendment be entered in the above-identified application prior to examination.

By means of the present Preliminary Amendment, the claims have been amended to clarify the same. The amendments to the claims are fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the present clarifying amendment of the claims.

By means of the present Preliminary Amendment, the specification has been amended and the claims further amended to correct an error therein. Specifically, the phrase "universal code" has been changed throughout the specification and claims to --universal cord--. Those of ordinary skill in the art would recognize such an error as well as the correction thereof from a reading of the original specification including the Figures. Thus, no new matter has been entered into the disclosure by way of the present amendment to the specification and the further amendment to the claims.

In view of the above, early and favorable consideration are respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas Spinelli", with a stylized flourish at the end.

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